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| 10/510,111 | 10/04/2004 | Norihisa Hirota | Q84015 | 5058 |
| 23373 7590 05/07/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | EXAMINER O HERN, BRENT T | |
| | | | ART UNIT 1772 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,111

Applicant(s)

HIROTA ET AL.

Examiner

Brent T. O'Hern

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-2 in the reply filed on 17 April 2007 is acknowledged.

The requirement is still deemed proper and is therefore made FINAL.

Examiner's Note

2. Applicant's translation appears to be a machine translation. Said translation appears to have significant errors and portions that do not make sense. Applicant is advised to make appropriate corrections.

Drawings

3. The drawings are objected to because on page 8, lines 15, 19, 29 and 34 of Applicant's Specification Applicant refers to reference numerals #4, #24a and #24b as being both "**bared portion**", "**barred portion**" and "**barrel portion**". These inconsistencies appear to be the result of the machine translation. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 1 and 2 are objected to because of the following informalities: the **abbreviation "TMA"** in claim 1, line 7 shall be replaced by the unabbreviated words. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "**wherein the temperature T is not lower than 120°C at a moment when the coefficient of contraction in the barrel portion of the polyester container represented by the following formula is 0.66%, Ratio of contraction (%) = (amount of contraction/gauge length) x 100 --- (1) wherein the amount of contraction is measured from a test piece cut from the barrel portion of the polyester container so as to possess a gauge length of 20 mm in compliance with TMA without pre-**

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loading while elevating the temperature at a rate of 3°C/min. after 30°C is exceeded” in claim 1, lines 1-8 is vague and indefinite since it is unclear whether Applicant is attempting to claim process limitations or product limitations and if product limitations then what structural limitations of the product Applicant is attempting to claim other than a polyester container with a barrel portion.

Claim 1 recites the limitations **“the temperature T”** in line 1, **“the coefficient of contraction”** in line 2 and **“the barrel portion”** in line 2. There is **insufficient antecedent basis** for these limitations in the claim.

The phrase **“the coefficient of contraction and the temperature T are values at pole portions among the reduced pressure-absorbing panels”** in claim 2, lines 2-4 is vague and indefinite since it is unclear what structural limitations of the product that Applicant is attempting to claim. The Examiner interprets said phrase as a confusing grouping of words as a result of an ineffective machine translation.

The term **“reduced pressure-absorbing panels”** in claim 2, line 2 is a **relative term** which renders the claim indefinite. The term **“reduced pressure-absorbing panels”** is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. A panel may be of reduced pressure to one person having ordinary skill in the art while of increased pressure to another person.

Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

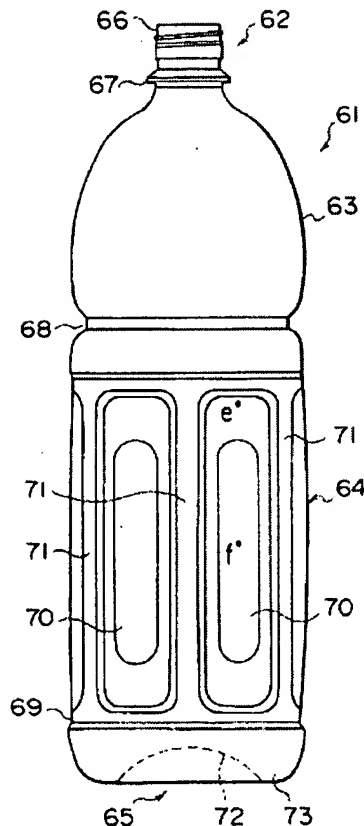
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamaki et al. (US 5,735,420).

Regarding claim 1, Nakamaki ('420) teaches a heat-resistant polyester container (col. 1, ll. 13-19 and FIG-11, #64) with a barrel portion (FIG-11, #63).

The phrase **“wherein the temperature T is not lower than 120°C at a moment when the coefficient of contraction in the barrel portion of the polyester container represented by the following formula is 0.66%, Ratio of contraction (%) = (amount of contraction/gauge length) x 100 --- (1) wherein the amount of contraction is measured from a test piece cut from the barrel portion of the polyester container so as to possess a gauge length of 20 mm in compliance with TMA without pre-loading while elevating the temperature at a rate of 3°C/min. after 30°C is exceeded”** in claim 1, lines 1-8 is not given any patentable weight other than the “barrel portion”, as discussed above as Applicant has not precisely positively set forth any structural limitations of Applicant's product.

FIG. 11



Regarding claim 2, Nakamaki ('420) teaches panels in the barrel portion (FIG. 11, #70 and #64).


The phrase **“the coefficient of contraction and the temperature T are values at pole portions among the reduced pressure-absorbing panels”** in claim 2, lines 2-4 is not given any patentable weight as Applicant has not precisely positively set forth any structural limitations other than those discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Brent T O'Hern
Examiner
Art Unit 1772
May 2, 2007


NASSER AHMAD
PRIMARY EXAMINER 5/3/07